



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,795	02/09/2004	Sylvan Yoder	21480-0001	9013

26587 7590 12/15/2005

MCNEES, WALLACE & NURICK LLC  
100 PINE STREET  
P.O. BOX 1166  
HARRISBURG, PA 17108-1166

EXAMINER

NGUYEN, JOHN QUOC

ART UNIT PAPER NUMBER

3654

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/774,795

Applicant(s)

YODER ET AL.

Examiner

John Q. Nguyen

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/9/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

Applicant's election without traverse of the species of figs. 11-14, claims 1-11 and 13-25 in the reply filed on 10/24/05 is acknowledged.

Claim 12 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/24/05.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 17, 18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For clarity and/or definiteness, it appears that —of the—should be inserted after “each” (claim 17, line 2), that “tech” (claim 18, line 2) should be ---the--.

Regarding claim 9, the word "means" is preceded by the word(s) "dynamic tension" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

All claims should be revised carefully to correct all other deficiencies similar to the ones noted above. The non-elected claims should also be similarly corrected at the same time so that the application can be allowed without delay should the generic claims become allowable.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-11, 19-21, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beyer, Sr. (US-6042046) in view of Moon et al (US-5163634) and Frolander et al (US-6543713).

Beyer, Sr discloses an apparatus having substantially all the claimed features including a motor 56 and a wrapping shaft 16. Beyer, sr. does not explicitly disclose an end of the shaft to be removably connected to the motor and a tensioning roller. However, it is deemed inherent that the end of the shaft is removably connected (such as by unscrewing nuts, bolts, etc) to the motor or, alternatively, to removably connect the motor and shaft would have been obvious to a person having ordinary skill in the art to facilitate maintenance and repair (i.e. such as to replace just the motor when the motor is inoperable). Moon et al discloses another similar apparatus in which a tensioning members 21 (21a can be cylindrical to minimize friction) and 35 (adjustably mounted) and guide 17 are provided. Frolander et al discloses another similar apparatus in which rollers 68 are used for a fence apparatus. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Beyer , Sr. with tensioning members and guide as taught by Moon et al to tension the elongated material and to provide the tensioning members as rollers as taught by Frolander et al

Art Unit: 3654

to reduce friction and wear. Note the mounting plate holding shaft 28 and the lift mechanism of the motorized vehicle in Moon et al. It would have been obvious to a person having ordinary skill in the art to alternatively provide the reeling and unreeling apparatus of Beyer, Sr. with a mounting plate for mounting on a vehicle as taught by Moon et al to conveniently lift/lower the apparatus as desired or needed. Relative to claim 3, that the motor is at the opposite end of the wrapping shaft would have been an obvious matter of design choice to a person having ordinary skill in the art based on factors such as ornamental preference, design criteria, space optimization, and costs. the method of claims 19-22 and 23-25 are deemed inherent or obvious in the apparatus and method of Beyer, Sr. modified as above.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beyer, Sr. in view of Moon et al and Frolander et al as applied to claims 1-5, 7-11, 19-21, 23-25 above, and further in view of Hughes (US-5385314).

Hughes discloses rollers support rollers 120 in conjunction with side rollers 116. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Beyer, sr. modified as above with support rollers 120 as taught by Hughes to support the flexible material and guide it into the desired position.

Claims 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beyer, Sr. in view of Moon et al and Frolander et al as applied to claims 1-5, 7-11, 19-21, 23-25 above, and further in view of Smith et al (US-5582216).

Art Unit: 3654

Smith et al discloses another similar apparatus in which retaining means including elements 73 are inserted into apertures 72 in the wrapping shaft to support disks 12 to adjustably support the flexible materials. It would have been obvious to a person having ordinary skill in the art to alternatively provide the wrapping shaft of Beyer et al with means as taught by Smith et al to adjustably support the flexible materials.

Claim 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Beyer, Sr. in view of Moon et al and Frolander et al as applied to claims 1-5, 7-11, 19-21, 23-25 above, and further in view of Mikelionis (US-6503326).

Rolls of folded flexible materials to reduce roll widths are old and well known in the art as evidenced by Mikelionis. It would have been obvious to a person having ordinary skill in the art to fold the flexible material before winding to reduce roll widths as is old and well known and evidenced by Mikelionis.

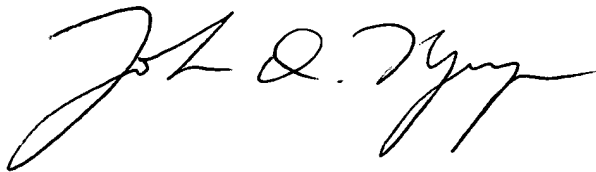
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Nguyen whose telephone number is (571) 272-6952. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday, from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (571) 272-6951. The fax phone

Art Unit: 3654

number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. Q. Nguyen', with a stylized, cursive script.

John Q. Nguyen  
Primary Examiner  
Art Unit 3654